

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

|                           |   |                    |
|---------------------------|---|--------------------|
| UNITED STATES OF AMERICA, | ) | CASE NO. 8:12CR253 |
|                           | ) |                    |
| Plaintiff,                | ) |                    |
|                           | ) |                    |
| vs.                       | ) | TENTATIVE FINDINGS |
|                           | ) |                    |
| TIMOTHY J. FOSTER,        | ) |                    |
|                           | ) |                    |
| Defendant.                | ) |                    |

The Court has received the Revised Presentence Investigation Report (PSR) regarding the defendant, Timothy J. Foster (Foster). Neither the government nor Foster has filed any objections to the PSR. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

**IT IS ORDERED:**

1. The Court's tentative findings are that the Revised Presentence Investigation Report is correct in all respects.
2. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings that adheres to the requirements of ¶ 8 of the Order on Sentencing Schedule (Filing No. 40), supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;
3. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

4. If the parties require more than a half hour for sentencing, counsel must contact Mary Beth McFarland by e-mail, [Mary Beth McFarland/NED/08/USCOURTS](mailto:MaryBethMcFarland/NED/08/USCOURTS)

DATED this 11th day of February, 2013.

BY THE COURT:

s/ Thomas D. Thalken  
United States Magistrate Judge